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DIGEST OF OTHER RECENT VIRGINIA DECISIONS.**Supreme Court of Appeals.**

Note.—In this department we give the syllabus of every case decided by the Virginia Supreme Court of Appeals, except of such cases as are reported in full.

EQUITABLE LIFE ASSUR. SOCIETY OF UNITED STATES v. KITT'S' ADM'R.

Jan. 14, 1909.

[63 S. E. 455.]

1. Appeal and Error (§ 1005*)—Review—Credibility of Witnesses—Evidence.—So long as a witness deposes to facts which, if true, are sufficient to maintain the verdict, then the fact that his credit is impeached by an attack upon his character, or by contradictory statements—especially conflicting statements made out of court—affects only his credibility, and goes, not to his competency, but to the weight and sufficiency of his testimony, which is for the jury, and their determination thereon, after refusal of the trial court to interfere, will not be disturbed by the appellate court.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. §§ 3948-3950; Dec. Dig. § 1005.* 1 Va.-W. Va. Enc. Dig. 620; 13 Id. 974.]

2. Pleading (§ 214*)—Demurrer—Effect.—Upon a demurrer, all facts properly pleaded in a declaration are taken as true.

[Ed. Note.—For other cases, see Pleading, Cent. Dig. §§ 525-534; Dec. Dig. § 214.* 4 Va.-W. Va. Enc. Dig. 471.]

3. Insurance (§ 665*)—Action—Evidence—Sufficiency—Delivery of Policy.—In an action on a life insurance policy, evidence held sufficient to show that the company acquiesced in the delivery of the policy.

[Ed. Note.—For other cases, see Insurance, Dec. Dig. § 665.* 7 Va.-W. Va. Enc. Dig. 779.]

*For other cases see same topic and section NUMBER in Dec. and Am. Digs. 1907 to date, and Reporter Indexes.

JORDAN & DAVIS v MAHONEY.

Jan. 14, 1909.

[63 S. E. 467.]

1. Frauds, Statute of (§ 109*)—Sufficiency of Writing—Nature of Memorandum—"Contract to Purchase."—Plaintiff having authorized an agent to sell land, defendants thereafter wrote to such agent to purchase the same land for them at a certain price. Plaintiff agreed with the agent to sell to defendants, and made a notation at the

*For other cases, see same topic and section NUMBER in Dec. and Am. Digs. 1907 to date, and Reporter Indexes.